



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[DA 16-105]

Order Declares Ocean Technology Limited's International Section 214 Authorization Terminated

AGENCY: Federal Communications Commission

ACTION: Notice.

SUMMARY: In this document, the International Bureau declares the international section 214 authorization granted to Ocean Technology Limited (Ocean) terminated given Ocean's inability to comply with the express condition for holding the authorization. We also conclude that Ocean failed to comply with those requirements of the Communications Act of 1934, as amended (the Act) and the Commission's rules that ensure that the Commission can contact and communicate with the authorization holder and verify Ocean is still providing service, which failures have prevented any way of addressing Ocean's inability to comply with the condition of its authorization.

FOR FURTHER INFORMATION CONTACT: Cara Grayer, Telecommunications and Analysis Division, International Bureau, at (202) 418-2960 or Cara.Grayer@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, DA 16-105, adopted and released January 29, 2016.

BACKGROUND

On July 17, 2013, the International Bureau granted Ocean an international section 214 authorization to provide global or limited global facility-based service and global or limited global resale service in accordance with section 63.18(e)(1) and 63.18(e)(2) of the Commission's rules. The International Bureau granted the application on the express condition that Ocean

abide by the commitments and undertakings contained in its Letter of Assurance (LOA) to the Department of Justice (DOJ), the Federal Bureau of Investigation, the Drug Enforcement Agency, and the U.S. Marshals Service (collectively, the Executive Branch Agencies) dated July 16, 2013. On July 1, 2015, the Executive Branch Agencies notified the Commission of Ocean's non-compliance with the conditions of its authorization and requested that the Commission terminate, and declare null and void and no longer in effect, the international section 214 authorization issued to Ocean. The Executive Branch Agencies indicated that open-source searches suggest that Ocean was still in operation and providing services, however, "every attempt by the DOJ to communicate with Ocean regarding its LOA compliance has resulted in failure." The Executive Branch Agencies added that Ocean's former legal counsel has not been in contact with Ocean since July 2014 and was also unable to contact Ocean. Based on this, the Executive Branch Agencies stated that they are "wholly unable to evaluate Ocean's compliance with the LOA, and must consider Ocean to be non-compliant."

The Commission has made significant efforts to communicate with Ocean, but has also been unable to do so. On August 25, 2015, the International Bureau sent Ocean a letter to the last addresses of record requesting that Ocean respond to the July 1, 2015 Executive Branch Letter within 30 days of the letter, by September 24, 2015. Ocean did not respond. Since that time, the International Bureau has provided Ocean with additional opportunities to respond to these allegations. The International Bureau stated that failure to respond would result in termination of Ocean's international section 214 authorization for failure to comply with conditions of its authorization. In Ocean's 2012 application, Ocean stated it was incorporated in Delaware, and according to the Delaware Secretary of State, the service of process received for Ocean cannot be forwarded because "the party served is not qualified to do business in the

jurisdiction served.” To date, Ocean has not responded to any of the International Bureau or the Executive Branch Agencies’ multiple requests to resolve this matter.

DISCUSSION

We determine that Ocean’s international section 214 authorization to provide international services issued under File No. ITC-214-20121210-00323 has terminated for inability to comply with an express condition for holding the section 214 international authorization. The International Bureau has provided Ocean with notice and opportunity to respond to the allegations in the July 1, 2015 Executive Branch Letter concerning Ocean’s non-compliance with the condition of the grant. Ocean has not responded to any of our multiple requests or requests from the Executive Branch Agencies. We find that Ocean’s failure to respond to our multiple requests demonstrates that it is unable to satisfy the LOA conditions, upon which the Executive Branch Agencies gave their non-objection to the grant of the authorization to Ocean, and which is a condition of the grant of its section 214 authorization.

Furthermore, after having received an international 214 authorization, a carrier “is responsible for the continuing accuracy of the certifications made in its application” and must promptly correct information no longer accurate, “and, in any event, within thirty (30) days.” Ocean has failed to inform the Commission of any changes in its business status of providing international telecommunications services, as required by the rules. Nor is there any record of Ocean having complied with section 413 of the Act and the Commission’s rules requiring it to designate an agent for service after receiving its authorization on July 17, 2013. Finally, as part of its authorization, Ocean “must file annual international telecommunications traffic and revenue as required by section 43.62.” Section 43.62(b) states that “[n]ot later than July 31 of each year, each person or entity that holds an authorization pursuant to section 214 to provide international telecommunications service shall report whether it provided international

telecommunications services during the preceding calendar year.” Our records indicate that Ocean failed to file an annual international telecommunications traffic and revenue report indicating whether or not Ocean provided services in 2014, as required by section 43.62(b) of the Commission’s rules. In these circumstances, and in light of Ocean’s failure to respond to the Commission’s rules designed to ensure its ability to communicate with the holder of the authorization, also warrants termination wholly apart from demonstrating Ocean’s inability to satisfy the LOA conditions of its authorization.

ORDERING CLAUSES

Accordingly, IT IS ORDERED, pursuant to sections 4(i), 214, and 413 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, 413, and sections 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), and 64.1195 of the Commission’s rules, 47 CFR §§ 1.47(h), 43.62, 63.18, 63.21, 63.22(h), 63.23(e), 64.1195, that the international 214 authorization issued under File No. ITC-214-20121210-00323 IS HEREBY TERMINATED AND DECLARED NULL AND VOID.

IT IS FURTHER ORDERED that the request of the U.S. Department of Justice, the Federal Bureau of Investigation, the Drug Enforcement Agency, and the U.S. Marshals Service, IS HEREBY GRANTED, to the extent set forth in this Order.

IT IS FURTHER ORDERED that a copy of this Order shall be sent by return receipt requested to Ocean Technology Limited at its last known addresses.

IT IS FURTHER ORDERED that a copy of this Order, or a summary thereof, shall be published in the Federal Register.

This Order is issued on delegated authority under 47 CFR §§ 0.51, 0.261, and is effective upon release. Petitions for reconsideration under section 1.106 of the Commission’s rules, 47

CFR § 1.106, or applications for review under section 1.115 of the Commission's rules, 47 CFR § 1.115, may be filed within 30 days of the date of the release of this Order.

Federal Communications Commission.

Denise Coca,
Chief, Telecommunications and Analysis Division, International Bureau.

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